IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

RSA No.3890 of 2007

Date of Decision: December 6, 2007

Punjab State and others .....Appellants.

Versus

Shri Chandu Lal .....Respondent

CORAM:- HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.Piyush Kant Jain, Additional AG Punjab
for the appellants.

S. D. ANAND, J.

1. The appellants withheld a part of the gratuity amount on the premise that certain payment, in excess of his entitlement, had been made to the plaintiff-respondent on account of the HRA.

2. There is not even an averment that any enquiry had been held against the plaintiff-respondent or that there was any mis-representation on behalf of the plaintiff-respondent which led to the excess payment aforementioned. The plaintiff-respondent has retired from service.

3. The learned First Appellate Court, in a fairly detailed order, held that the appellants could not have withheld a part of the gratuity payable to the respondent just on account of the alleged excess payment, for which the plaintiff-respondent could not be held accountable. There is plethora of law on the point that the recovery of such like 'excess' payment is not valid in the absence of an averment and proof that the beneficiary

employee had, in any manner, contributed to the payment of the excess amount.

4. Learned State counsel raises a plea that the learned First Appellate Court did not deal with the finding on point of maintainability. It is pointed out, in the context, that the learned Trial Court had recorded adequate reasoning to record a finding that the suit was not maintainable in the present form. As against it, the argument proceeds, the learned First Appellate Court did not reverse that finding but proceeded to reverse the judgment and decree passed by the learned Trial Court.

5. The present is concededly a judgment of reversal. At the same time, there is nothing on the file to indicate that the appellants ever insisted upon the learned First Appellate Court dealing with the issue of maintainability. The learned First Appellate Court decided the matter in accordance with the law of the land and thereby did substantial justice.

6. No question of law, much less substantial in character, arises for determination in this case by this Court.

7. Dismissed.

(S. D. ANAND)
JUDGE

December 06, 2007
SRM

Note: Whether referred to reporter ? Yes/No